IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.84 OF 1998

IN

CHAMBER SUMMONS NO.1322 OF 1997

IN

SUIT NO.3746 OF 1994

Dr Ashok Gandhi ...Appellant

v/s

Kamlakar R. Shenoy and ors. ...Respondents

Mr P.K. Samdani with Mr D.R.Mehta i/b M/s Dhruve Liladhar and Co. for Appellant.

Mr A.B. Nagvekar i/b M/s Soloman and Co. for Respondents.

CORAM : D.K. DESHMUKH AND J.H. BHATIA JJ.

DATE : 2ND JULY 2007.

P.C. :-

1. This appeal is filed against the order dated 1st October 1997 passed in chamber summons No.1322 of 1997. That chamber summons was taken out by the plaintiffs for directing the defendants to give inspection of certain documents. The learned Single Judge by order dated 1st October 1997 directed the defendant No.2 to give inspection of the documents which were mentioned in the chamber summons. It is an admitted position that these documents have neither been relied on by the defendant No.2 in any affidavit filed by him so far in the suit nor has the defendant No.2 filed any written statement. Therefore, the submission of the learned counsel appearing for appellants that this chamber summons was taken out prematurely, in our opinion, has considerable substance. The Court can give direction to a party to give inspection of the documents on which it relies either in affidavit or in the written statement. It is therefore obvious that the chamber summons was premature. The impugned order therefore is liable to be set aside. It is accordingly set aside. It is however made clear that the plaintiffs shall be at liberty to take out a fresh chamber summons for the same reliefs after the defendants file written statement and

in case the defendant No.2 relies on any of the documents in his written statement.

. Parties to act on the copy of this order duly authenticated by the Associate / Private Secretary as true copy.

. Certified copy expedited.